

AMENDED IN SENATE AUGUST 15, 2006

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JUNE 28, 2005

AMENDED IN ASSEMBLY MAY 26, 2005

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 386

Introduced by Assembly Member Lieber

February 11, 2005

~~An act to amend Sections 9886.1 and 9886.2 of the Business and Professions Code, to amend Sections 44001.5, 44002, 44003, 44003.5, 44005, 44010.5, 44011, 44011.6, 44013, 44013.5, 44014.7, 44017, 44020, 44024, 44024.5, 44036, 44037.2, 44050.5, 44058, 44060, 44061, 44070, 44070.5, 44071, 44072.1, 44072.10, 44081, 44091, 44093, 44094, and 44095 of, and to add Section 44001.4 to, the Health and Safety Code, relating to air pollution. An act to amend Section 21132 of, and to add Section 20037.9 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 386, as amended, Lieber. ~~Air pollution: motor vehicle inspection and maintenance.—State employees: memoranda of understanding: State Bargaining Units 16 and 19.~~

(1) Under existing law, a provision of a memorandum of understanding reached between the state employer and a recognized

employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions that require the expenditure of funds of memoranda of understanding entered into between the state employer and State Bargaining Units 16 and 19, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.

This bill would further provide that provisions of the memoranda of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would authorize the state employer and the affected employee organization to reopen negotiations on all or part of the memoranda if funds for those provisions are not specifically appropriated by the Legislature.

(2) The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Existing law defines final compensation variously for different member classifications and bargaining units and, in this regard, defines final compensation for a state member for the purpose of calculating retirement benefits as the highest annual average compensation earnable by the member during a designated 12-month period.

This bill would provide that final compensation for a person who becomes a state member, as specified, on or after January 1, 2007, and who is represented by State Bargaining Units 16 or 19 means the highest annual average compensation earnable by the member during a designated 36-month period.

(3) The Public Employees' Retirement Law prescribes the rights and benefits of the members of the Public Employees' Retirement System. The law requires that a state safety member retire when he or she reaches 65 years of age, unless employed as a physician, dentist, or podiatrist.

This bill would instead except from that retirement requirement, any state safety member represented by State Bargaining Unit 16 or 19.

(4) This bill would also appropriate \$32,774,000 from the General Fund and other unallocated funds for expenditure for the 2006–07 fiscal year for state employee compensation in augmentation of the Budget Act of 2006, as specified.

(5) *This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The duty of enforcing and administering the program is vested in the Chief of the Bureau of Automotive Repair within the department.~~

~~This bill would require the State Air Resources Board, in consultation with the department, to develop, and revise as necessary, the program goals, program design, and program funding to implement the smog check program. The department, in consultation with the state board, would be required to implement and enforce the program designed by the state board. The duties of the department would be vested in the chief of the bureau. The bill would require the office of the Governor to prepare an interagency agreement relating to the program goals, program design, and program funding of this act, and would require the state board, the department, and any other affected agency to enter into the agreement no later than June 30, 2006. The bill would make conforming changes relating to the responsibilities of the state board and of the department in connection with the motor vehicle inspection and maintenance program. The bill would also make legislative findings and declarations relating to the motor vehicle inspection and maintenance program.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares that the*
- 2 *purpose of this act is to approve an agreement pursuant to*
- 3 *Section 3517 of the Government Code entered into by the state*
- 4 *employer and State Bargaining Unit 16, Union of American*
- 5 *Physicians and Dentists (UAPD), on July 12, 2006, and State*
- 6 *Bargaining Unit 19, American Federation of State, County and*
- 7 *Municipal Employees (AFSCME), on July 18, 2006, that require*
- 8 *the expenditure of funds.*
- 9 *SEC. 2. The provisions of the memoranda of understanding*
- 10 *prepared pursuant to Section 3517.5 of the Government Code*
- 11 *and entered into by the state employer and the following*
- 12 *employee organizations, and that require the expenditure of*

1 *funds, are hereby approved for the purposes of Section 3517.6 of*
2 *the Government Code:*

3 *(a) State Bargaining Unit 16, Union of American Physicians*
4 *and Dentists.*

5 *(b) State Bargaining Unit 19, American Federation of State,*
6 *County and Municipal Employees.*

7 *SEC. 3. The provisions of the memoranda of understanding*
8 *approved by Section 2 of this act that are scheduled to take effect*
9 *on or after July 1, 2006, and that require the expenditure of*
10 *funds, shall not take effect unless funds for these provisions are*
11 *specifically appropriated by the Legislature. If the Legislature*
12 *does not approve or fully fund any provision of the memoranda*
13 *of understanding that requires the expenditure of funds, either*
14 *party may reopen negotiations on all or part of the memoranda*
15 *of understanding.*

16 *SEC. 4. Notwithstanding Section 3517.6 of the Government*
17 *Code, the provisions of any memorandum of understanding*
18 *included in Section 2 that require the expenditure of funds shall*
19 *become effective even if the provisions of the memoranda of*
20 *understanding are approved by the Legislature in legislation*
21 *other than the annual Budget Act.*

22 *SEC. 5. Section 20037.9 is added to the Government Code, to*
23 *read:*

24 *20037.9. (a) Notwithstanding Sections 20035 and 20037,*
25 *final compensation for a person who becomes a state member of*
26 *the system on or after January 1, 2007, and is represented by*
27 *State Bargaining Unit 16 or 19, means the highest average*
28 *annual compensation earnable by the member during the*
29 *consecutive 36-month period immediately preceding the effective*
30 *date of his or her retirement, or the date of his or her last*
31 *separation from state service if earlier, or during any other*
32 *period of 36 consecutive months during his or her state*
33 *membership that the member designates on the application for*
34 *retirement.*

35 *(b) This section applies to service credit accrued while a*
36 *member of State Bargaining Unit 16 or 19.*

37 *(c) This section does not apply to:*

38 *(1) Former state employees previously employed before*
39 *January 1, 2007, who return to state employment on or after*
40 *January 1, 2007.*

1 (2) *State employees hired prior to January 1, 2007, who were*
2 *subject to Section 20281.5 during the first 24 months of state*
3 *employment.*

4 (3) *State employees hired prior to January 1, 2007, who*
5 *become subject to representation by State Bargaining Unit 16 or*
6 *19 on or after January 1, 2007.*

7 (4) *State employees on an approved leave of absence*
8 *employed before January 1, 2007, who return to active*
9 *employment on or after January 1, 2007.*

10 SEC. 6. *Section 21132 of the Government Code is amended to*
11 *read:*

12 21132. Every state safety member shall be retired on the first
13 day of the calendar month succeeding that in which he or she
14 attains age 65. Every member who has attained age 65 when he
15 or she becomes a state safety member shall be retired on the first
16 day of the following month.

17 This section shall not apply to members—employed as
18 ~~physicians, dentists, or podiatrists~~ represented by State
19 Bargaining Unit 16 or State Bargaining Unit 19.

20 SEC. 7. *The sum of thirty-two million seven hundred*
21 *seventy-four thousand dollars (\$32,774,000) is hereby*
22 *appropriated for expenditure in the 2006–07 fiscal year in*
23 *augmentation of, and for the purpose of state employee*
24 *compensation as provided in, Items 9800-001-0001,*
25 *9800-001-0494, and 9800-001-0988 of Section 2.00 of the*
26 *Budget Act of 2006 in accordance to the following schedule:*

27 (a) *Twenty-five million seventy-seven thousand dollars*
28 *(\$25,077,000) from the General Fund in augmentation of Item*
29 *9800-001-0001.*

30 (b) *Four million nine hundred twenty-six thousand dollars*
31 *(\$4,926,000) from unallocated special funds in augmentation of*
32 *Item 9800-001-0494.*

33 (c) *Two million seven hundred seventy-one thousand dollars*
34 *(\$2,771,000) from other unallocated nongovernmental cost funds*
35 *in augmentation of Item 9800-001-0988.*

36 SEC. 8. *This act is an urgency statute necessary for the*
37 *immediate preservation of the public peace, health, or safety*
38 *within the meaning of Article IV of the Constitution and shall go*
39 *into immediate effect. The facts constituting the necessity are:*

1 *In order for the provisions of this act to be applicable as soon*
2 *as possible in the 2006–07 fiscal year, and thereby facilitate the*
3 *orderly administration of state government at the earliest*
4 *possible time, it is necessary that this act take effect immediately.*

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7 **All matter omitted in this version of the bill**
8 **appears in the bill as amended in the**
9 **Senate, August 15, 2005 (JR11)**
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